

STATE OF MICHIGAN
COURT OF APPEALS

TOWN & COUNTRY STERLING HEIGHTS,
INC., d/b/a CENTURY 21 TOWN & COUNTRY,

UNPUBLISHED
November 18, 2003

Plaintiff-Appellee,

v

MARK I. WARREN,

No. 241776
Oakland Circuit Court
LC No. 01-036276-AZ

Defendant-Appellant.

Before: Cooper, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Defendant appeals by leave granted from a circuit court order setting a hearing on plaintiff's request for a permanent injunction despite granting defendant's motion for summary disposition. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff sued defendant for intentional infliction of emotional distress and requested both monetary and injunctive relief. The trial court entered a temporary restraining order that was continued pending a hearing to determine whether a permanent injunction should issue. The court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(8) but denied his motion to dissolve the TRO and set the matter for an evidentiary hearing. We review the trial court's decision whether to grant or dissolve an interlocutory injunction for an abuse of discretion. *Freeman v Mitchell*, 198 Mich 207, 210; 164 NW 445 (1917).

A complaint must plead a cause of action that arguably entitles the plaintiff to judicial relief. *Sheremet v Chrysler Corp*, 372 Mich 626, 632; 127 NW2d 313 (1964) (Souris, J., concurring); *Emerick v Saginaw Twp*, 104 Mich App 243, 247; 304 NW2d 536 (1981). There is no remedy in the legal process for any act not designated a wrong in the law, *Atkinson v John E. Doherty & Co*, 121 Mich 372, 382; 80 NW 285 (1899), and thus a complaint may be dismissed for failure to state a claim if it does not allege any equitable or legally cognizable wrong for which there is any equitable or legal remedy. *Sheremet, supra*; MCR 2.116(C)(8).

An injunction – an equitable remedy – may issue when justice requires, when the plaintiff does not have an adequate remedy at law, and when the plaintiff is in real and imminent danger of irreparable harm. *Charter Twp of Bloomfield v Oakland Co Clerk*, 253 Mich App 1, 15; 654 NW2d 610 (2002). In order to obtain such relief, plaintiff must identify some wrong committed

by the defendant that causes him irreparable harm. Cf. *Treasurer of the Committee to Elect Gerald D Lostracco v Fox*, 150 Mich App 617, 621; 389 NW2d 446 (1986); *Detroit Newspaper Publishers Ass'n v Detroit Typographical Union No. 18*, 471 F2d 872, 876 (CA 6, 1972). Because plaintiff's complaint was dismissed for failure to state a claim upon which relief can be granted, ipso facto plaintiff is not entitled to relief, injunctive or otherwise, and the TRO should have been dissolved.

Reversed.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter